

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 524 of 2025

IN THE MATTER OF:

Sagar Stone Industries

...Appellant

Versus

Sajjan Kumar Dokania & Ors.

...Respondents

Present:

For Appellant : Present but appearance not marked.

For Respondents : Mr. Vinod Chaurasia, Advocate for RP.

With

Company Appeal (AT) (Insolvency) No. 525 of 2025

IN THE MATTER OF:

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...Appellant

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Sajjan Kumar Dokania (RP)

...Respondent

Present:

For Appellant : Present but appearance not marked.

For Respondent : Mr. Vinod Chaurasia, Advocate.

O R D E R
(Hybrid Mode)

28.03.2025: These two appeals have been filed the Resolution Applicant challenging the order passed by the Adjudicating Authority dated 21.02.2025 in I.A. No.4977/ND/2024 and I.A. No.5769/ND/2024.

2. In the resolution process of the Corporate Debtor – Jabalpur MSW Pvt. Ltd. the resolution plans were invited. Appellant was one of the Resolution

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Applicant and he submitted his plan. Ten resolution plans including resolution plan of the Appellant and other Resolution Applicants were considered by the CoC. On 11.06.2024, the CoC considered the plan of the Appellant and approved the resolution plan of the Successful Resolution Applicant with 100% vote share. The Resolution Professional filed an application being I.A. No.36/2024. Appellant has filed I.A. No.4977/ND/2024 and I.A. No.5769/ND/2024. By I.A. No.4977/ND/2024, Appellant prayed for rejection of the approval of Resolution Plan and by I.A. No.5769/ND/2024, Appellant sought direction IBBI to initiate enquiry against the Resolution Professional. Both the applications were heard and by the impugned order has been rejected. The plan approval application - I.A. No.36/2024 is reserved for orders by the Adjudicating Authority.

3. Learned counsel for the Appellant challenging the order contends that the Resolution Applicant was never informed about the rejection of his plan and approval of plan of SRA. It is submitted that the CoC extended the time for consideration of Resolution Plan and had not resorted to challenge process.

4. Learned counsel for the Resolution Professional submits that the Appellant was communicated about the decision on 15.06.2024 and was also informed about the email of the SRA. Learned counsel for the Resolution Professional submits that Appellant has also congratulated the SRA via email.

5. We have considered the submissions of learned counsel for the parties and perused the record.

6. In so far as submission of the Appellant that he was never communicated about rejection of his plan and decision to approve plan of SRA, the Resolution Professional has refuted the said submission of the Appellant and submitted that Appellant was communicated telephonically. We are of the view that the mere fact that any written communication of rejection of Appellant's plan was not sent shall have no effect on the resolution passed by the CoC approving the Resolution Plan. Appellant's plan admittedly was considered as one of the Resolution Applicant and CoC has approved the Plan of the SRA. The commercial wisdom of the CoC in approving the Resolution Plan cannot be interfered with at the instance of the Appellant.

7. Coming to the second submission advanced by the Appellant that CoC has revised the plan more than once in violation of Regulation 39(1A) of the CIRP Regulations 2016 which provides that plan cannot be permitted to be revised more than once. He further submits that challenge mechanism was not resorted to while permitting revision of plan.

8. Regulation 39(1A) is a regulation which provides that Resolution Professional shall not permit modification to resolution plan more than once, which regulation, however, does not bind the CoC and the CoC has unfettered right to ask for revision of plan or negotiate with all Resolution Applicants once or more. In so far as holding challenge mechanism, it is an enabling

mechanism for the CoC for value maximisation and not holding challenge mechanism cannot be a ground on which approval of plan can be questioned.

10. We are of the view that the Adjudicating Authority has not erred in rejecting both the applications. There is no merit in the appeals. Both Appeals are dismissed.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

[Arun Baroka]
Member (Technical)

Archana/nn